

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

WESLEY T. NASH,

Petitioner,

v.

Case No. 10-20679
Civil Case No. 12-12677
Honorable Thomas L. Ludington

UNITED STATES OF AMERICA,

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION, DENYING
PETITIONER'S MOTION TO VACATE SENTENCE**

Petitioner Wesley Nash filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255. On October 2, 2012, Magistrate Judge Charles E. Binder issued a report recommending the motion be denied. Judge Binder maintained that no material factual dispute existed to warrant an evidentiary hearing on the issue. Rep. & Rec. 9, ECF No. 38. As of today's date, no party has filed any objections to the magistrate judge's report and recommendation. The election to not file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 38, is **ADOPTED**.

It is further **ORDERED** that Defendants' motion to vacate sentence, ECF No. 34, is **DENIED**.

Dated: October 23, 2012

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail, and on Wesley T. Nash #45338-039, FCI Ray Brook Inmate mail, P.O. Box 300, Ray Brook, NY 12977 by first class U.S. mail on October 23, 2012.

s/Tracy A. Jacobs
TRACY A. JACOBS